

PART IX: Licensing Provisions

§3557. Authority to make consumer loans

A. Unless a person has first obtained a license from the commissioner as provided under this Part, he shall not engage in the business of:

- (1) Making consumer loans; or
- (2) Making loans with the use of a lender credit card or similar arrangement.

B. Provided that the creditor has one or more offices in this state, a creditor may not take assignments of and undertake direct collection of payments from or enforce rights against consumers arising from consumer loans, without first having obtained a license from the commissioner as provided under this Part. A creditor may, however, collect and enforce consumer loan obligations of which he has taken assignment for three months without a license if he notifies the commissioner in writing of his intention to take assignments of consumer loans, including the name and address of the proposed assignee and assignor, the number of loans assigned, the dollar amount of the assignment, and other information the commissioner requires at least ten days prior to the time the assignment is made, and the commissioner has not objected, and such creditor promptly applies for a license and his application has not been denied.

§3558. License to make consumer loans

A. The commissioner shall receive and act on all applications for licenses to make consumer loans under this Chapter. Applications shall be filed in the manner prescribed by the commissioner and shall contain the information the commissioner requires to make an evaluation of the financial responsibility, character, and fitness of the applicant.

B. No license shall be issued unless the commissioner, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and of the members thereof (if the applicant is a partnership or association) and of the officers and directors thereof (if the applicant is a corporation), are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this chapter.

C. Upon written request, the applicant is entitled to a hearing on the question of his qualifications for a license if (1) the commissioner has notified the applicant in writing that his application has been denied, or (2) the commissioner has not issued a license within sixty days after the application for the license was filed. A request for a hearing may not be made more than fifteen days after the commissioner has mailed a written notice to the applicant notifying him that the application has been denied and stating in substance the commissioner's findings supporting denial of the application.

D. The commissioner may grant restricted or conditional licenses. Violation of such restrictions or conditions by the licensee may constitute grounds for suspension or revocation of such license.

§3559. Continuation of licensing

A. All persons licensed or otherwise authorized under the provisions of the Louisiana Small Loan Act (R.S. 6:571-593), the Motor Vehicle Sales Finance Act or Direct Vehicle Loan Companies Act (R.S. 6:951-964; R.S. 6:970-976) and who have an occupational license to make loans not regulated by the above acts on January 1, 1973, are licensed to make consumer loans, and the commissioner shall, upon request, within forty-five days, deliver evidence of licenses to the person so previously licensed or authorized.

B. All persons previously licensed as set forth in Subsection A of this section desiring to become licensed lenders pursuant to this provision shall file notice of such intent with the commissioner within thirty days after the effective date of this chapter and shall be deemed a licensed lender within the meaning of this chapter from January 1, 1973, provided that notice is timely filed. Failure to file notice within the allotted time shall constitute a waiver of the rights granted under this section.

§3559.1. Regulation of former licensees

A. A licensed lender whose license has been revoked, suspended, or canceled may, with the prior written consent of the commissioner, continue to collect payments on or enforce such loans without a license so long as it complies with each of the following:

- (1) The record keeping requirements for licensed lenders.
- (2) All other provisions of this Chapter.
- (3) Pays the commissioner's costs for conducting compliance examinations or investigations of its records.
- (4) The terms of any valid order of the commissioner or of a court relative to provisions of this Chapter.
- (5) All consent agreements entered into with the commissioner.

B. The commissioner may require such unlicensed persons to enter into a consent agreement containing the provisions of this Section and may require additional restrictions and conditions therein, as determined by the commissioner, as a condition to the former licensee's continued collection or enforcement of consumer loans.

C. The commissioner may assess civil money penalties of up to one thousand dollars per violation for violations of this Section. Such penalties may be recovered by the commissioner in a civil action brought in a court of competent jurisdiction, together with reasonable attorney fees and costs incurred in bringing such action.

§3560. Licenses not required

A. Notwithstanding R.S. 9:3557, the following persons shall be exempt from the consumer loan licensing requirements under this Part:

(1)(a) A bank, savings and loan association, or similar financial institution organized, certified, and supervised by an agency of either the United States of America or the state of Louisiana pursuant to the banking, currency and related laws of the United States of America or the state of Louisiana.

(b) A subsidiary of any state-chartered entity described in Subparagraph (a) of this Paragraph in which eighty percent or more of the ownership rests with such parent entity.

(2) A trust administered by a bank or a bank trust department.

(3) A governmental agency, instrumentality, or public entity organized by act of congress or the Legislature of Louisiana.

(4) An insurance company when entering into a life insurance loan to a policyholder.

(5) A qualified pension plan when entering into an extension of credit to a plan participant.

(6) A bona fide pledgee of a consumer credit transaction to secure a bona fide loan thereon.

(7) A seller or other creditor refinancing a retail installment transaction subject to the Motor Vehicle Sales Finance Act.

(8) A creditor having no office within this state offering credit to Louisiana consumers through the mails and other means of interstate commerce.

(9) Unless otherwise provided by rule or regulation of the commissioner, persons whose lending activities pertain to federally related mortgage loans, and who are subject to licensing, supervision or auditing by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Governmental National Mortgage Association, the Veterans Administration, or the United States Department of Housing and

Urban Development. Such lenders may also make loans secured by a second or junior lien or mortgage on owner-occupied one-to-four family residential immovable property made contemporaneously with federally related mortgage loans or as part of a mortgage revenue bond loan program, or sold on the secondary market to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Governmental National Mortgage Association, and the entity sells ten or fewer of such loans over any calendar year.

(10) A person who is licensed pursuant to the Residential Mortgage Lending Act, R.S. 6:1081 et seq., and whose primary business is that of a mortgage broker, mortgage lender, or both.

B. The commissioner is authorized to waive the consumer loan licensing and examination requirements for a subsidiary of an entity as described in Subparagraph (a) of this Paragraph where the holding company thereof has one or more state-chartered subsidiaries. In lieu of such licensure and examination, the commissioner may review relevant reports or portions thereof prepared by any subsidiary agency described in Subparagraph (a) of this Paragraph.

C. The commissioner may enter into a supervisory agreement with any supervisory agency described in Subparagraph (A)(1)(a) of this Section where such supervisory agency agrees to periodically examine the entity which is subject to its jurisdiction for compliance with this Chapter. Where such an agreement has been entered into, the commissioner may accept relevant reports or portions thereof prepared by such supervisory agency in lieu of the licensing and examination requirements of this Chapter.

§3561. Single place of business; additional licenses

A. Each licensee shall maintain a place of business in the state and, unless otherwise provided by rule, shall maintain records of its consumer loans at that location. Not more than one place of business shall be maintained under the same license, but the commissioner shall issue additional licenses to the same licensed lender upon his compliance with all the provisions of this Part governing issuance of a license.

B. A licensed lender may change the location of the business only after written approval of the commissioner. The application to change the location shall be filed at least thirty days prior to the proposed relocation date. Upon receipt of the application, the commissioner may cause a survey to be made to determine if the proposed location meets the requirements imposed for a new licensed location. If the requirements are met, the application shall be approved.

C. A license to make consumer loans may not be sold or otherwise transferred. However, all accounts and other assets may be sold or transferred to another licensed lender, upon prior written approval of the commissioner. After the sale or transfer of all accounts, the license of the selling or transferring licensee shall be surrendered to the commissioner as cancelled.

D.(1) No person shall acquire or control a consumer loan license through the acquisition or control of fifty percent or more of the ownership interest in a licensee without first having obtained written approval from the commissioner, pursuant to an application for a change of control in ownership of the licensee filed in the manner and on a form prescribed by the commissioner and accompanied by a fee of three hundred dollars. Any person who acquires controlling interest in a licensee without first having filed an application for change of control with the commissioner shall be deemed to be operating without proper authority under this Chapter and is subject to the penalties of R.S. 9:3554.1.

(2) For the purposes of this Section, a person acquires or controls the licensee when the person directly or acting through one or more other persons owns a majority interest in the licensee, or exercises a controlling influence over the management or the policies of the licensee as determined by the commissioner after notice and an opportunity for an informal meeting, not subject to the Administrative Procedure Act, regardless of whether the acquisition or control occurs incrementally over a period of time or as one transaction.

(3) Any person who acquires or anticipates acquiring a seventy-five percent interest in a licensee shall file for a new license prior to acquiring ownership of said interest either incrementally over a period of time or as one transaction.

E. A licensed lender may change its name only after written application to and approval by the commissioner.

F. (1) Unless prior written approval is obtained from the commissioner, a licensed lender may not assign or otherwise transfer ownership of consumer loans, including insurance premium financing agreements, to a person who is not a licensed lender, or who has not complied with R.S. 9:3557(B), or who is not exempt from the licensing requirements as provided in R.S. 9:3560.

(2) A licensee shall keep a record or list of all consumer loans which it has purchased, sold, assigned, or otherwise transferred or acquired. The records shall include the name and address of the persons from which the loans were acquired or to whom the notes were transferred, indicate any affiliation between the seller and buyer, the date and dollar amount of each such transaction, and account names and numbers.

§3561.1. License; examination; renewal fees; records

A. The initial application, survey, and license fee for a license to make consumer loans shall be five hundred fifty dollars and shall be payable only by cashier's check, certified check, or money order. Such application, survey, and license fee shall be nonrefundable. If the license is not issued for any reason, upon written request of the applicant, the fee shall be applied to the submission of a new application.

B. The annual renewal fee, including examination, shall be four hundred fifty dollars,

payable on or before the first day of January of each year.

C. (1) The survey fee for an application to change the location of a licensed lender shall be one hundred dollars. If the change in location is approved by the commissioner of financial institutions, no additional fee shall be required for the transfer of the existing license to the new location.

(2) The fee to change the name or the mailing address of a licensed lender that does not involve the relocation of the lender shall be fifty dollars.

(3) However, a fee of fifty dollars shall be assessed if a licensed lender changes locations without complying with the provisions of R.S. 9:3561(B) or changes its name without complying with the provisions of R.S. 9:3561(E). Whenever the commissioner learns that a licensed lender has changed locations or name without complying with the provisions of R.S. 9:3561(B) or (E), he shall notify the licensed lender by certified mail, return receipt requested, that the fee has been assessed.

D. If the commissioner has not received the assessed fee within thirty days after the date the licensed lender received his notification of assessment, he shall revoke the licensed lender's license without hearing or further notification. The license shall not be reinstated. However, the former licensee may apply for a new license.

E. No fee shall be prorated.

F. (1) If the commissioner has not received the annual renewal fee from a licensed lender by the sixteenth day of January, as determined by the postmarked date, he shall notify the licensed lender by United States mail and assess a late fee of one hundred dollars.

(2) If the commissioner has not received the annual renewal fee and late fee by March thirty-first, the license to make consumer loans and insurance premium finance loans shall lapse without a hearing or notification, and the license shall not be reinstated; however, the person whose license has lapsed may apply for a new license.

G. (1) If the lender's records are located outside this state, the lender, at the commissioner's option, shall make them available to the commissioner at a location within this state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(2) The commissioner shall have the authority to examine the books, records, and accounts of any former licensed lender or other permit holder which is being liquidated or is engaging in the collection or enforcement of consumer loans.

(3) Persons regulated by this Chapter, including persons engaged in the collection or enforcement of consumer loans who have not paid an examination fee for any reason, including revocation, suspension, cancellation, relinquishment, or non-renewal of permit, shall, upon examination, pay an examination fee to the commissioner of fifty dollars per hour per examiner. If the examination fee is not paid within thirty days after its assessment, the person examined is subject to an administrative penalty of not more than one hundred dollars each day that it is late. The penalty, together with the amount due, may be recovered by the commissioner in a civil action brought in any court of competent jurisdiction.

H. The commissioner may promulgate rules or regulations to reduce the fees described in Subsections A and B of this Section with respect to their application to automated loan machines.